

Supreme Court, U.S.

FILED

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NO. 87-1217

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IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1987

JOHN LORENZINI and NANCY LORENZINI  
Petitioners,

v.

STATE OF NEW JERSEY  
Respondent.

On Writ Of Certiorari To The Law  
Division Of The Superior Court, Bergen  
County, State of New Jersey

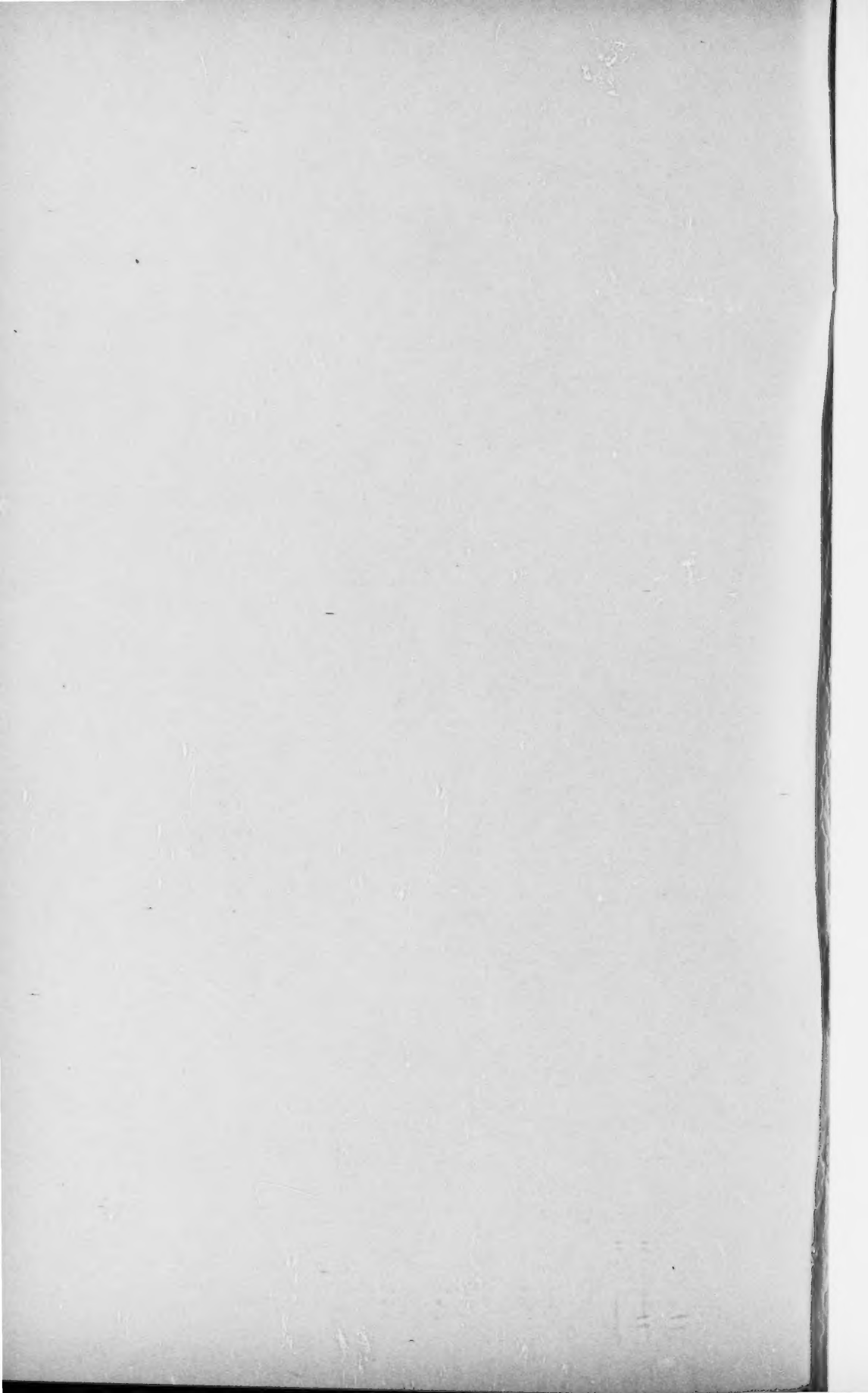
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BRIEF IN OPPOSITION TO PETITION FOR  
WRIT OF CERTIORARI

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**QUESTION PRESENTED FOR REVIEW**

May a trial court order co-defendants to obtain separate counsel in the face of what the court perceives as a conflict of interest, despite the defendants' waiver of their rights and insistence on joint representation?

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### OPINIONS BELOW

The following proceedings of the New Jersey State courts are reproduced in the appendix to the petition for writ of certiorari: the order of the New Jersey Supreme Court denying leave to appeal and also denying the motion for leave to appeal as within time (App. A); and the order of the Appellate Division of Superior Court denying leave to appeal (App. B). These opinions are not published.

### JURISDICTION

The judgment of the Supreme Court of New Jersey was entered on September 11, 1987 and the petition for writ of certiorari was thereafter filed within time. Jurisdiction of this Court is invoked under 28 U.S.C. 1257 (3).



**CONSTITUTIONAL PROVISION INVOLVED**

Constitution of the United States,  
Amendment VI

In all criminal prosecutions,  
the accused shall enjoy the right...to  
have the assistance of counsel for his  
defense.

**STATEMENT OF THE CASE**

Petitioners John Lorenzini,  
III, and Nancy Lorenzini, husband and  
wife, were indicted by a Bergen County  
New Jersey Grand Jury on February 4,  
1985. Also indicted were eight other  
people including two other Lorenzini  
family members. All ten persons were  
charged with conspiracy to promote  
gambling and with promoting gambling.  
The overt acts alleged in support of the  
conspiracy mentioned John and Nancy  
Lorenzini in the following paragraphs:

9. On November 26, 1984 at approximately 8:48 p.m. John Lorenzini, III, telephoned Richard Yacovelli over telephone facility (201) 768-0014. During the ensuing conversation John Lorenzini, III, placed illegal wagers for himself and others using the code name "John 9".

13. On November 26, 1984 at 7:02 p.m., Nancy Lorenzini telephoned Richard Yacovelli at telephone facility (201) 768-0014 and received the "line" and an illegal gambling figure representing proceeds of illegal gambling activities.

14. On or about November 29, 1984 telephone facilities were installed at 16 Nottingham Court, Montvale, New Jersey, the residence of JOHN and NANCY LORENZINI. NANCY LORENZINI discussed the calling of the Telephone Company with RICHARD YACOVELLI on or about November 26, 1984 and indicated that the phones would be in next week.

15. On November 29, 1984 at approximately 6:48 p.m., NANCY LORENZINI telephoned JAMES J. CAPUANO at telephone facility (201) 768-0014 and received the "line" for JOHN LORENZINI, III.

In addition, John Lorenzini was charged along with Nicholas Lorenzini with maintaining premises used for purposes of gambling activity. He was also charged with possession of gambling records. (Ral-Ra8) .

Following their indictment, the four Lorenzini family members met with Anthony Pace, Esq., who advised them that the charges were serious and that there would be a clear conflict in his representing all of them. Of these four persons, John and Nancy Lorenzini were reluctant to obtain separate counsel because of their financial situation and because they felt more comfortable with Mr. Pace as their attorney. He agreed to continue representation of the couple in the hope of arriving at a plea, but cautioned the Lorenzinis that the court would be likely to order separate counsel in the event of a trial.

When a plea agreement could not be reached, the Honorable Alfred D. Schiaffo, Judge of the Superior Court, held a hearing and ordered separate counsel despite the wishes of the Lorenzinis. Mr. Pace agreed to continue

representing John Lorenzini. The Lorenzinis decided to pursue a pro se interlocutory appeal of this order against the advise of Mr. Pace that it did not make economic sense and that he had anticipated the court's order from a legal perspective.

The Appellate Division denied the Lorenzinis' motion for leave to appeal on December 30, 1985. (App. B). The New Jersey Supreme Court denied review on September 11, 1987. (App.A).

On October 1, 1987, Justice William J. Brennan, Jr., denied a stay pending the timely filing of a petition for writ of certiorari. (Ra13). A similar application was denied on October 16, 1987 by the full Court. (Ra14).

On February 23, 1988, just after their trial had commenced, the petitioners, represented by separate

counsel, entered pleas of guilty. On March 30, 1988, John Lorenzini was sentenced to two concurrent one year terms of probation and a \$1000 fine and Nancy Lorenzini was sentenced to six months of probation and a \$1000 fine. (Ra15-Ra19). Petitioners have neither filed appeals from their convictions nor have they moved to withdraw their pleas.

#### **SUMMARY OF ARGUMENT**

The question presented by Petitioners is a significant one and is presently pending before this Court in another case. A decision on the merits must accommodate the competing interests posed by the right of a criminal defendant to choose counsel, the weight to be accorded his waiver and the need to ensure conflict-free representation. Despite the importance of the issue

presented herein, the present case is not an appropriate one for a grant of review both because the finality requirement has not been met in State court and because Petitioners entered guilty pleas without preserving their right to appeal.

#### **ARGUMENT**

#### **THE TRIAL COURT CORRECTLY ORDERED PETITIONERS TO SECURE SEPARATE TRIAL COUNSEL.**

Petitioners John and Nancy Lorenzini were indicted on charges of conspiracy to promote gambling and promoting gambling. In addition, John Lorenzini was charged with maintaining a gambling resort and with possession of gambling paraphernalia. A reading of the overt acts in support of the conspiracy reveals that Nancy Lorenzini allegedly obtained gambling information

(the "line") for John Lorenzini, who was the individual actually placing wagers on behalf of himself and others. She also arranged telephone lines for the Lorenzini home to facilitate the gambling enterprise.

Although the petitioners desired to proceed to trial with one attorney representing both of them, the trial court held a hearing at which it ordered the Lorenzinis to retain separate counsel. The trial court based its decision on a reading of the indictment, from which it concluded that husband and wife would have totally incompatible defenses. As the court explained, to successfully defend Nancy Lorenzini it would be necessary for the defense attorney to implicate John Lorenzini. Respondent agrees. From the indictment, it appears that Mrs. Lorenzini handled arguably

ministerial functions on behalf of the gambling operation whereas her husband was a more active participant. Her defense attorney might choose to assert that she was acting under the direction of her husband, but such a strategy could not be undertaken by an attorney who represented both parties, even if it were in the wife's best interests.

The petitioners were warned by the trial court of the pitfalls of joint representation but nonetheless waived their right to separate counsel. When the trial court refused to accept their waivers the petitioners sought appellate relief, culminating in the present petition for writ of certiorari. Meanwhile, after commencing trial--with separate counsel--they entered pleas of guilty and were sentenced.



Petitioners argue that they were denied their right to proceed with counsel of their own choosing. Respondent maintains that the trial court was correct in refusing to accept petitioners' waivers.

The Supreme Court of New Jersey has emphatically stated the problems inherent in joint representation of co-defendants:

The Sixth Amendment to the Federal Constitution and Art. 1, par. 10 of the New Jersey Constitution provide in nearly identical language that in a criminal prosecution the accused has the right to the "assistance of counsel" for his defense.[footnote omitted]. Mere literal compliance with these provisions would clearly frustrate the purpose and spirit of the right to counsel. Recognizing this, both the United States Supreme Court and this Court have repeatedly held that this fundamental guarantee of representation means the right to "effective assistance." See, e.g., Glasser v. United States, 315 U.S. 60, 62 S.Ct. 457, 86 L.Ed. 2d 680 (1941)\*\*\* A defense

attorney's representation must be "untrammelled and unimpaired," his loyalty undivided. See Glasser v. United States, 315 U.S. at 70\*\*\* The constitutional effectiveness of counsel therefore depends on his adherence to those ethical standards which serve to maintain his independent professional judgement.\*\*\* There is no greater impairment of a defendant's constitutional right to counsel than that which can occur when his attorney is serving conflicting interests. The resulting representation may be more harmful than the complete absence of a lawyer.

State v. Bellucci, 81 N.J. 531, 537-538, 410 A. 2d 666, 669-670 (1980).

In furtherance of this philosophy, as of September 10, 1979, the Rules Governing Criminal Practice in New Jersey prohibit individual attorneys and law firms from representing more than one defendant in a multi-defendant indictment without court permission. State v. Bellucci, 81 N.J. at 542, 410 A.2d at 671.

The United States Supreme Court

recognized the seriousness of an actual conflict of interest in Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed. 2d 674 (1984). When such a conflict exists, prejudice is presumed because counsel has breached "the duty of loyalty, perhaps the most basic of counsel's duties." 466 U.S. at 692, 80 L.Ed. 2d at 696. Not only does counsel have an obligation to avoid such conflicts, but the federal trial courts are given the ability by the Federal Rules of Criminal Procedure to make early inquiry in situations likely to give rise to conflicts. Id.

Unfortunately, this area of the law is not free of competing considerations. When courts are confronted with defendants who wish to proceed with a single counsel, they must

balance two concerns--the right to representation free of conflicts of interest and the right to counsel of one's own choosing. And, they must perform this balancing knowing full well that whatever their decision, there could be an appeal urging reversible error. United States v. Wheat, 813 F. 2d 1399, 1402 (9 Cir. 1987), cert. granted 108 S.Ct. 66 (1987). Beyond this, the problem with giving deference to a defendant's waiver is that it may be the product of unknown agreements, manipulation of testimony, the not disinterested advice of counsel, or the inability of the defendant to appreciate the significance of the decision he has made. Id. at 1403. Accordingly, several courts which have considered this issue have concluded that there will be instances in which a trial court may override a defendant's waiver and

order separate counsel. Id. at 1404;  
United States v. Flanagan, 679 F.2d  
1072, 1076 (3 Cir. 1982), rev'd on other  
grds. 465 U.S. 259, 104 S.Ct. 1051, 79  
L.Ed. 2d 288 (1984); United States v.  
Dolan, 570 F.2d 1177, 1184 (3 Cir.  
1978); United States v. Reese, 699 F.2d  
803, 805 (6 Cir. 1983).

In United States v. Dolan,  
supra, the Third Circuit Court of  
Appeals pointed out the danger that the  
waiver might not be intelligently and  
knowingly made because the judge is not  
in a position to inform the defendant of  
the foreseeable prejudices of multiple  
representation--the court not knowing  
the available defenses and strategy at  
the beginning of trial. Moreover, the  
defendant may not be "competent enough  
to understand the complex, subtle and  
sometimes unforeseeable dangers..." 570  
F.2d at 1181. Joint representation may

breach the lawyer's ethical code. It may also permit defendant to present a solid wall to prosecutors and thwart the public interest in crime investigation. Id. at 1182. Accordingly, when an actual conflict is found, the trial court must act to ensure the integrity of the proceedings, insulate itself from the future claim that the waiver was inadequate, exercise its supervisory power over the bar, and direct that separate counsel be obtained. Id. at 1184. The bottom line is that there is surely a right to counsel but there is no absolute right to the particular counsel of one's choice. Id. at 1183.

Respondent is not unmindful of the fact that there is disagreement among the courts concerning the standard to be applied in determining whether to override a defendant's knowing waiver. Compare United States v. Reese, 699 F.2d

803, 805 (6 Cir. 1983) [waiver must be honored in the absence of compelling circumstances and a mere belief that a conflict exists will not suffice to defeat defendant's right to choose counsel] with United States v. Flanagan, supra, 679 F.2d at 1076 [waiver may be overridden when the potential for actual conflict is very likely]. Respondent also acknowledges that there has been considerable longstanding controversy concerning the duty of the trial court to make an inquiry, the form of the inquiry, and the separate question of whether there has been an effective waiver. See United States v. Lawrie, 568 F.2d 98 (8 Cir. 1977), cert. den 435 U.S. 969, 98 S.Ct. 1607, 56 L.Ed. 2d 60 (1978) and the numerous cases cited therein. Finally, Respondent notes that this Court has granted review of this very issue in United States v. Wheat,

supra.

Despite the importance of the present issue, however, Respondent maintains that the case at bar is not an appropriate vehicle for granting review. There are two basic reasons for the State's conclusion: the lack of finality and petitioners' entry of guilty pleas.

**A. THE FINALITY DOCTRINE PRECLUDES REVIEW.**

The present dispute stemmed from an interlocutory order of the trial court directing petitioners to retain separate counsel. Petitioners sought discretionary review from the Appellate Division of Superior Court and from the New Jersey Supreme Court, but these courts refused leave to appeal, thus declining to hear the merits of the controversy prior to trial. It was at that posture of their case that



petitioners sought review from the United States Supreme Court, but, as noted above, the petitioners eventually pleaded guilty in State court while the petition for certiorari was pending. Respondents contend that this Court lacks jurisdiction to hear this matter because the order of the trial court is not a final judgment or decree as required by 28 U.S.C. 1257 (3).

Under New Jersey practice, the petitioners presently have the right to file direct appeals from their convictions with the Appellate Division of Superior Court. At such time they will be able to raise any constitutional claim stemming from the proceedings below. Should they fail to prevail in the Appellate Division they also have a right to seek discretionary review by the New Jersey Supreme Court. Until petitioners have pursued these available

channels, there is no finality for purposes of federal appellate review. In no way have the appellate courts of New Jersey touched the federal issue presented herein, much less made a final determination on the merits.

The State fully realizes that the finality doctrine has not been construed rigidly but admits of various exceptions even when there are further proceedings available in State court. Pennsylvania v. Ritchie, \_\_\_\_ U.S. \_\_\_\_, 107 S.Ct. 989, 996, 94 L.Ed. 2d 40 (1987). Uniformly, however, the exceptions demand that the federal issue be finally decided in the highest court of the State. Cox Broadcasting Corp. v. Cohn, 420 U.S. 469, 95 S.Ct. 1029, 1037-1041, 43 L.Ed. 2d 328 (1975). The finality doctrine is not a "technicalit[y] to be easily scorned," particularly "when the jurisdiction of

this Court is invoked to upset the decision of a State court."

Radio Station WOW, Inc. v. Johnson, 326 U.S. 120, 124, 65 S.Ct. 1475, 1478, 89 L.Ed. 2092 (1945). Finality is essential to good judicial administration and "avoids the mischief of economic waste and of delayed justice." Id.

Although the merits of petitioners' federal issue have never been reached by a New Jersey appellate court, a channel is now open. The issue remains ripe for determination should petitioners file a direct appeal. Respondent maintains that the finality doctrine precludes review in these circumstances.

#### B. THE ENTRY OF GUILTY PLEAS PRECLUDES REVIEW.

The Respondent contends that

the petitioners waived their right to bring the present constitutional challenge by virtue of their guilty pleas.

On February 23, 1988 the petitioners interrupted their trial to enter unconditional pleas of guilty. Each petitioner was represented by counsel during the aborted trial and at the plea hearing. Thereafter, still represented by separate counsel, petitioners were each sentenced to terms of probation and fined.

It is well-settled that once a defendant enters a plea of guilty he may not raise claims relating to the deprivation of constitutional rights occurring prior to the plea. Tollett v. Henderson, 411 U.S. 258, 267, 93 S.Ct. 1602, 1608, 36 L.Ed. 2d 235 (1973). The

present petitioners made voluntary and intelligent choices to plead guilty while being represented by counsel. They have not alleged any defect in representation by these attorneys; nor have they alleged prejudice in the sense that counsel's ineffective performance affected the outcome of the plea process. Moreover, they have not moved to vacate their pleas. See Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 370-371, 88 L.Ed. 2d 203 (1985). Under such circumstances, the State cannot fathom petitioners' legal reasons for the pursuit of further review other than the vindication of an academic point.

CONCLUSION

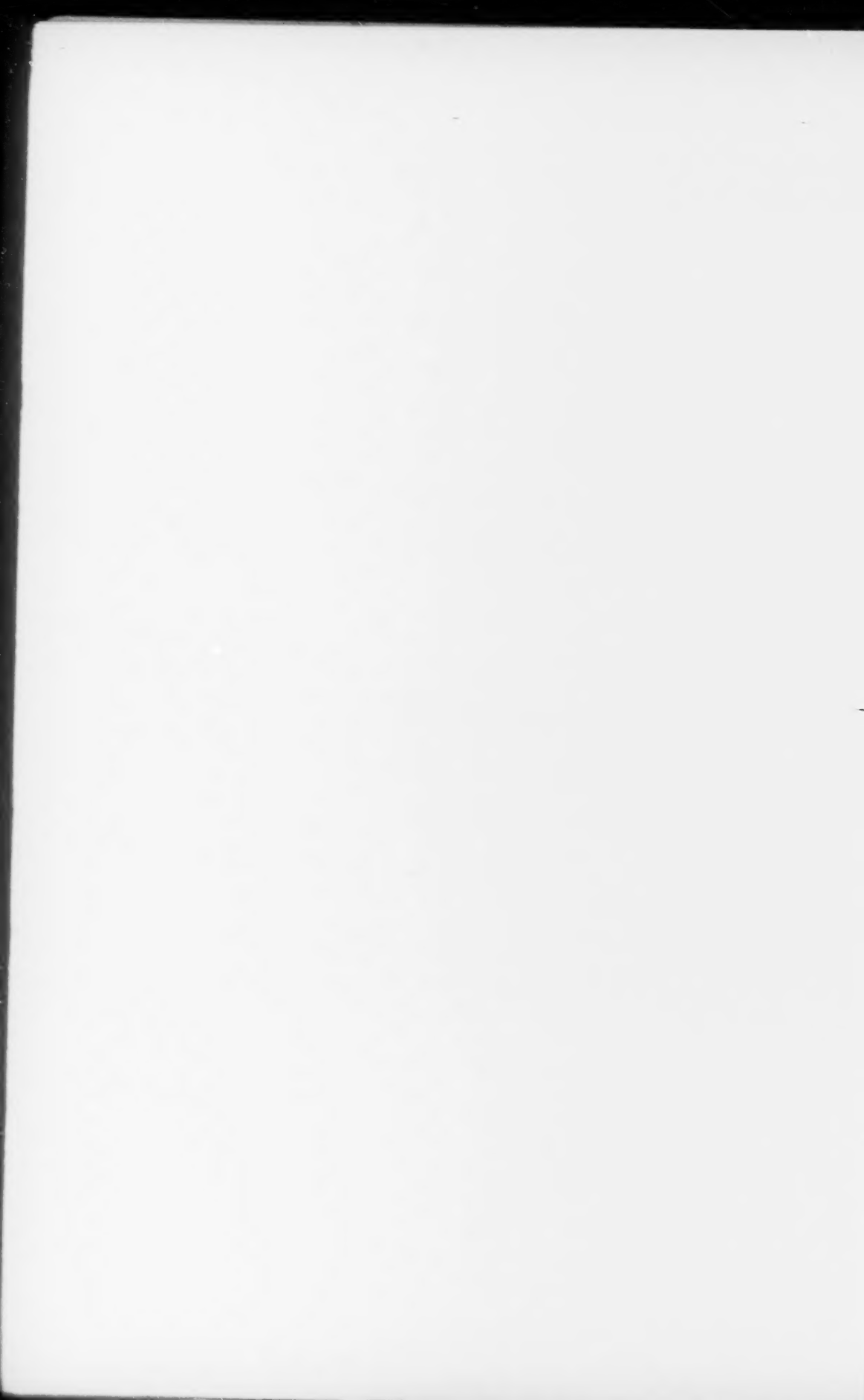
For the reasons stated herein  
the petition for a writ of certiorari  
should be denied.

Respectfully submitted,

LARRY J. MC CLURE  
Bergen County Prosecutor  
Attorney for Respondent

BY: *Susan W. Sciacca*  
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Counsel of Record

## APPENDIX





Ra 1

P.O. 3667-84

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2/4/85

SUPERIOR COURT OF NEW JERSEY

BERGEN COUNTY-LAW DIVISION

JULY

TERM A.D. 1984

SECOND

STATED SESSION

THE STATE OF NEW JERSEY :

-vs- :

RICHARD YACOVELLI

PATRICK BORZONE, JR. :

JAMES J. CAPUANO

VICTOR MONCALIERI :

DONALD SCHEULEN

THOMAS SCHEULEN : Indictment No

JOHN LORENZINI, III

SHARON LORENZINI : S-164-85-07

NANCY LORENZINI

NICHOLAS LORENZINI :

DEFENDANTS :

\_\_\_\_\_ :

The Grand Jurors of the State of New  
Jersey, for the County of Bergen, upon  
their oaths present as a

FIRST COUNT

that RICHARD YACOVELLI, PATRICK BORZONE,  
JR., JAMES J. CAPUANO, VICTOR  
MONCALIERI, DONALD SCHEULEN, THOMAS

SCHEULEN, JOHN LORENZINI, III, SHARON LORENZINI, NANCY LORENZINI, and NICHOLAS LORENZINI, on, before, during and between November 26, 1984 and December 2, 1984, in the Boroughs of Northvale, Norwood, and Park Ridge, and other divers locations, in the County of Bergen aforesaid, and within the jurisdiction of this Court, with the purpose of promoting or facilitating within the State of New Jersey, the commission of the crime of promoting gambling, to wit, engaging in bookmaking to the extent of accepting or receiving in any one day more than five bets totaling more than \$1,000 on sporting events, did conspire and agree with each other and such other persons that they or one or more of them would commit the offense of promoting gambling, to wit, engaging in bookkeeping, or did agree to aid another person or persons in the

planning or commission of promoting gambling or an attempt or solicitation to commit such crime:

OVERT ACTS

AND in the pursuance of the aforesaid conspiracy and to effect the object thereof, the following overt acts were done:

\* \* \*

9. On November 26, 1984 at approximately 8:48 p.m. JOHN LORENZINI, III, telephoned RICHARD YACOVELLI over telephone facility (201) 768-0014.

During the ensuing conversation JOHN LORENZINI, III, placed illegal wagers for himself and others using the code name "John 9".

\* \* \*

13. On November 26, 1984 at 7:02 p.m., NANCY LORENZINI telephoned RICHARD YACOVELLI at telephone facility (201)

768-0014 and received the "line" and an illegal gambling figure representing proceeds of illegal gambling activities.

14. On or about November 29, 1984 telephone facilities were installed at 16 Nottingham Court, Montvale, New Jersey, the residence of JOHN and NANCY LORENZINI. NANCY LORENZINI discussed the calling of the Telephone Company with RICHARD YACOVELLI on or about November 26, 1984 and indicated that the phones would be in next week.

15. On November 29, 1984 at approximately 6:48 p.m., NANCY LORENZINI telephoned JAMES J. CAPUANO at telephone facility (201) 768-0014 and received the "line" for JOHN LORENZINI, III.

\* \* \*

contrary to the provisions of NJS 2C:5-2/2C:37-2, and against the peace of this State, the Government and dignity of the same.

SECOND COUNT

AND the Grand Jurors aforesaid, upon their oaths aforesaid, do further PRESENT that RICHARD YACOVELLI, PATRICK BORZONE, JR., JAMES J CAPUANO, VICTOR MONCALIERI, DONALD SCHEULEN, THOMAS SCHEULEN, JOHN LORENZINI, III, NICHOLAS LORENZINI, SHARON LORENZINI and NANCY LORENZINI, on, before, during and between November 26, 1984 and December 2, 1984, in the Boroughs of Northvale, Norwood, and Park Ridge, and other divers locations, in the County of Bergen aforesaid, and within the jurisdiction of this Court, did promote gambling by engaging in bookmaking to the extent that they received or accepted in any one day more than five bets totaling more than \$1,000 or by engaging in conduct which materially aided said form of gambling activity, contrary to the provisions of NJS 2C:37-

2, and

against the peace of this State, the  
Government and dignity of the same.

\*

\*

\*

#### FOURTH COUNT

AND the Grand Jurors aforesaid, upon  
their oaths aforesaid, do further  
PRESENT that JOHN LORENZINI, III, and  
NICHOLAS LORENZINI, on, before, during  
and between November 26, 1984 and  
December 2, 1984, in the Borough of  
Northvale, in the County of Bergen  
aforesaid, and within the jurisdiction  
of this Court, while having substantial  
proprietary or other authoritative  
control over premises open to the  
general public, to wit: LORENZINI's  
RESTAURANT at Livingston Street,  
Northvale, New Jersey, which was being  
used with their knowledge for purposes  
of gambling activity, they permitted

such to occur or continue or made no effort to prevent its occurrence or continuation, contrary to the provisions of NJS 2C:37-4b, and against the peace of this State, the Government and dignity of the same.

FIFTH COUNT

AND the Grand Jurors aforesaid, upon their oaths aforesaid, do further PRESENT that RICHARD YACOVELLI, JAMES J. CAPUANO, JOHN LORENZINI, III, SHARON LORENZINI and NICHOLAS LORENZINI, on or about December 2, 1984, in the Borough of Norwood and Northvale, in the County of Bergen aforesaid, and within the jurisdiction of this Court, did, with knowledge of the contents thereof, possess any writing, paper, instrument or article of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, constituting, reflecting or representing

Ra 8

more than five bets totaling more than \$1,000, contrary to the provisions of NJS 2C:37-3, and against the peace of this State, the Government and dignity of the same.

\*

\*

\*

LARRY J. McCLURE  
COUNTY PROSECUTOR

BY: Dominick P. Preziosi, Jr  
Assistant Prosecutor

A True Bill

---

Wayne R. Foutch, Foreman



Ra 9

ANTHONY J. PACE  
COUNSELLOR AT LAW

MARY ANN PACE CHASE

294 HARRINGTON AVENUE  
CLOSTER, N.J. 07624  
(201)767-1717

December 17, 1985

Honorable Herman D. Michels  
155 Morris Avenue  
3rd Floor  
Springfield, NJ 07081

Honorable Joseph F. Deegan, Jr.  
Court House  
New Brunswick, NJ 08903

Honorable Edwin H. Stern  
175 South Street  
PO BOX 191M  
Morristown, NJ 07960

RE: STATE V. YACOVELLI, et al  
Indictment S164-85

Your Honors:

I submit the following response  
to the Motion for Leave to Appeal  
regarding the above case.

I was contacted by four members  
of the Lorenzini family regarding their  
arrest for the violation of various  
gambling statutes in late November or  
early December, 1984. I have known the  
family for many years and the four came

to my office after their arrest. John Lorenzini and his wife, Nancy and Nicholas Lorenzini and his wife, Sharon, all came to see me together, regarding this matter and to discuss their defense to these charges.

At the initial conference I explained to all of the individuals the fact that these were serious charges and that there was a clear conflict in my representing all parties and recommended that they all obtain separate counsel. I gave them a name or names of attorneys that I felt would be able to assist them. John Lorenzini and his wife, Nancy, and I discussed, however, the possibility of my representing both of them on the matter as they were in serious financial difficulty and could not afford to hire separate counsel. We also discussed their ability to make application for an attorney through the Public Defender's Office. That suggestion again did not meet with great success and they felt more comfortable and confident with my representation.

We also discussed at our early conferences my firm belief that eventually if the matter was ever to go to trial, that the Court would order that one or the other of them would have to obtain separate counsel but I agreed to continue to represent both in hopes that some acceptable plea agreement could be worked out obviating the need for their retention of two attorneys.

A plea agreement could not be reached and at a continued Green hearing, the Honorable Alfred Schiaffo ordered me to discontinue representation of one of the Lorenzini's and to continue with the other, giving them the opportunity to elect. In further conversations with John and Nancy Lorenzini, it was agreed that I would continue to represent Mr. Lorenzini, but they both expressed much displeasure at the fact that the court had ordered one of them to obtain new counsel and, therefore, wished to appeal the trial court's decision.

I advised them that it did not make economic sense to take this appeal, as the money that they would expend to prosecute same would be sufficient to hire a new attorney. I was advised by John Lorenzini that since they had already taken a pro se appeal in a civil case, which is presently pending, they felt more than comfortable and confident to prosecute this appeal on their own, which they have done.

I cannot truly attest in any way to their financial dilemma and I am, of course, sensitive to the trial court's and the prosecution's concern regarding the joint representation. I wish Your Honors to know that on numerous occasions I advised and assured my clients [sic] that I expected if the circumstances lead to a trial, that the court would order prior to trial that the Lorenzini's obtain separate counsel.

I stand ready to abide by this Honorable Court's decision in the matter as, of course, I was prepared to do when

Ra 12

the trial court rendered its decision.

Respectfully submitted,

ANTHONY J. PACE

AJP:mk

cc: Honorable Alfred Schiaffo  
Patricia Baglivi, Asst. Pros.  
Mr. and Mrs. Lorenzini

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OFFICE OF THE CLERK  
SUPREME COURT OF THE UNITED STATES  
WASHINGTON, D.C. 20543

October 1, 1987

Mr. John Lorenzini  
Mrs. Nancy Lorenzini  
16 Nottingham Court  
Montvale, NJ 07645

Re: John Lorenzini and Nancy  
Lorenzini v. New Jersey, et al,  
A-265

Dear Mr. and Mrs. Lorenzini

Your application for a stay  
pending the timely filing and  
disposition of a petition for a writ of  
certiorari in the above-entitled case  
has been presented to Justice Brennan,  
who has endorsed thereon the following:

"Denied  
Wm. J. Brennan, Jr.  
10/1/87"

Very truly yours,

JOSEPH F. SPANIOL, JR., CLERK

BY

Edward L. Turner, Jr.  
Assistant Clerk

cc: Susan Sciacca, Esq.

Ra 14

OFFICE OF THE CLERK  
SUPREME COURT OF THE UNITED STATES  
WASHINGTON, D.C. 20543

October 16, 1987

Mr. John Lorenzini  
Mrs. Nancy Lorenzini  
16 Nottingham Court  
Montvale, NJ 07645

Re: John Lorenzini and Nancy  
Lorenzini v. New Jersey,  
et al., A-265

Dear Mr. and Mrs. Lorenzini:

The Court today entered the  
following order in the above-entitled  
case:

"The application for stay  
addressed to Justice O'Connor and  
referred to the Court is denied."

Very truly yours,

JOSEPH F. SPANIOL, JR., Clerk

BY

Francis J. Lorson  
Chief Deputy Clerk

vjr

cc: Susan Sciacca, Esq.

Clerk, Supreme Court of New Jersey  
(Your Nos. MO-70/71/72 Sept. Term  
1987)

STATE OF NEW JERSEY

NEW JERSEY SUPERIOR COURT

v. Indt. S-164-85-07 Bergen County  
LAW DIVISION-CRIMINAL

JOHN LORENZINI, III  
Defendant

\_\_\_ JUDGMENT OF CONVICTION

\_\_\_ ORDER FOR COMMITMENT

315964a S.B.I.#  
12/2/84 DATE OF ARREST  
2/4/84 DATE INDICTMENT FILED  
2/22/85 DATE OF ORIGINAL PLEA  
XX NOT GUILTY \_\_\_ GUILTY

<u>ADJUDICATION BY:</u>	<u>DATE</u>
___ GUILTY PLEA	<u>2/23/88</u>
___ JURY TRIAL	_____
___ NON-JURY TRIAL	_____

ORIGINAL CHARGES \_\_\_\_\_

<u>Indictment No.</u>	<u>Count</u>	<u>Description</u>	<u>Statute</u>
s-164-85	1	conspiracy/ promote gambling	2C;5-2/37-2
	2	promote gambling	2C;37-2
	4	maintain gambling resort	2C;37-4b
	5	poss. gambling records	2C;37-3

Ra 16

FINAL CHARGES guilty to ct.2 and 5 as  
amended to 3rd degree.  
2C:37-3

It is, therefore, on 3/30/88 ORDERED and  
ADJUDGED that the defendant is sentenced  
as follows:

Ct. 2 - Probation for 1 year.

Fine of \$1000 payable 1/3 by 4/15/88,  
1/3 by 5/15/88, and 1/3 by 6/15/88.

Ct. 5 - Probation for 1 year, concurrent  
to ct. 2.

Ct. 1 and 4 - dismissed on State's  
motion.

\$50 - VCCB

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NAME(Court Clerk or Person who prepares  
this form)

RICH PELCHER

---

NAME(Attorney for Defendant at  
Sentencing)

ANTHONY PACE

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#### STATEMENT OF REASONS

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Deft. has one prior DP in 1974. A  
period of probation will be imposed for  
the deterrence of the defendant.

A fine is specailly [sic] adapted  
for the deterrence of this type of  
offense.

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Ra 17

JUDGE(Name)

DATE

CHARLES R. DI GISI

4/4/88

STATE OF NEW JERSEY

NEW JERSEY SUPERIOR COURT

v. Indt. S-164-85-09 Bergen County  
LAW DIVISION-CRIMINAL

NANCY LORENZINI

Defendant

\_\_\_ JUDGMENT OF CONVICTION

\_\_\_ ORDER FOR COMMITMENT

239438b S.B.I.#

12/3/84 DATE OF ARREST

2/4/85 DATE INDICTMENT FILED

2/22/85 DATE OF ORIGINAL PLEA

XX NOT GUILTY \_\_\_ GUILTY

ADJUDICATION BY: DATE

\_\_\_ GUILTY PLEA 2/23/88

\_\_\_ JURY TRIAL \_\_\_\_\_

\_\_\_ NON-JURY TRIAL \_\_\_\_\_

ORIGINAL CHARGES \_\_\_\_\_

<u>Indictment No.</u>	<u>Count</u>	<u>Description</u>	<u>Statute</u>
s-164-85	1	conspiracy/ promote gambling	2C;5-2/37-2
	2	promote gambling	2C;37-2

FINAL CHARGES Ct.2 as amended to 3rd  
degree 2C:37-2 Promote  
Gambling as D.P. charge.

It is therefore, on 3/30/88 ORDERED and  
ADJUDGED that the defendant is sentenced  
as follows:

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Ct. 2 - Probation for 6 months.  
Fine of \$1000, payable at 1/3 by  
4/15/88, 1/3 by 5/15/88 and 1/3 by  
6/15/88 to Probation.

\$25 - VCCB

Ct. 1 - dismissed on State's motion.

---

NAME(Court Clerk or Person who prepares  
this form)

RICH PELCHER

---

NAME(Attorney for Defendant at  
Sentencing)

ADOLPH GALLUCCIO

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#### STATEMENT OF REASONS

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Deft. has no prior offenses. A  
period of probation will be imposed for  
the deterrence of this defendant.

A fine is specially adapted for the  
deterrence of this type of offense.

---

JUDGE(Name)

DATE

CHARLES R. DI GISI

4/4/88